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87 N. C. 367; *Cliquots Champagne*, 70 U. S. (3 Wall.) 114; *Peter v. Thickstun*, 51 Mich. 589. In theory the principal case is not in harmony with the cases just cited, for it appears that the quotation offered and rejected was the official quotation of that market, made up as all quotations on eggs were made in that market, and by persons familiar with the course of trade in that market. Some courts refuse to receive market quotations unless it be shown how they are made up. *Bunte v. Schuman*, 92 N. Y. Supp. 806; *Whelan v. Lynch*, 60 N. Y. 469; *Merewether v. O. & K. C. R. Co.*, 128 Mo. App. 647, 107 S. W. 434. Contra: *Mt. Vernon Brewing Co. v. Teschner*, 108 Md. 158, 69 Atl. 702. Some courts go so far as to allow a witness to testify to the market price of commodities, whose knowledge is based on quotations found in newspapers or received from dealers. *Tex. Cent. R. Co. v. Fischer*, 18 Tex. Civ. App. 78; *Tex. & Pac. R. Co. v. W. Scott & Co.* (Tex.) 86 S.W. 1065; *Chicago R. I. & T. R. Co. v. Hassel*, 36 Tex. Civ. App. 522, 81 S. W. 1241; *Suttle v. Falls*, 98 N. C. 393; *Smith v. N. C. R. Co.*, 68 N. C. 107. Contra: *Tountain v. Wabash R. Co.*, 114 Mo. App. 683, 90 S. W. 393, 114 Mo. App. 683; *Norfolk & W. R. Co. v. Reeves*, 97 Va. 284; *Ferris v. Sutcliffe*, 1 Alb. Law J. 238; *Bunte v. Schuman*, 92 N. Y. Supp. 806.

EXECUTORS AND ADMINISTRATORS—DENIAL OF APPLICATION FOR APPOINTMENT OF ADMINISTRATOR—REMEDY—MANDAMUS APPEAL.—Sylvanus Flick died intestate in Missouri and his only son applied for letters of administration, which the Probate Court refused to grant. A statute in force in Missouri provides that "Letters of administration shall be granted: First, to the husband or wife; secondly, to those who are entitled to distribution of the estate, or one or more of them, as the court or judge or clerk in vacation shall believe will best manage and preserve the estate." *Held*—, the rule laid down in the statute is not so strict as to preclude a Probate Court from passing over one entitled to letters under it, where the one so entitled is unfit to administer and to appoint him would subject the assets of the estate to unusual hazard. *State ex. Rel. Flick v. Reddish et al.* (1910), — Mo. App. —, 129 S. W. 53.

This case is also interesting in respect to procedure. The relator appealed from the ruling of the Probate Court and failing in the Circuit Court, appealed to the Court of Appeals where his right to appeal at all from the ruling of the Probate Court was denied and the case dismissed. That court, however, certified the case to the Supreme Court which affirmed the holding of the Court of Appeals—*Flick v. Schenk* (1908), 212 Mo. 275—and pointed out that the proper remedy was by a proceeding in mandamus. Accordingly, relator instituted the present proceeding. The Circuit Court granted the writ, but an appeal was again taken and the same court which had previously denied relator an appeal held mandamus improper in this case, since the Probate Court had acted judicially and not ministerially and appeal was the proper remedy.

FRAUD—FALSE REPRESENTATION—KNOWLEDGE OF FALSITY.—Plaintiff sued defendant for the amount of a promissory note given by plaintiff to defendant for an option which defendant claimed he held on certain land. The